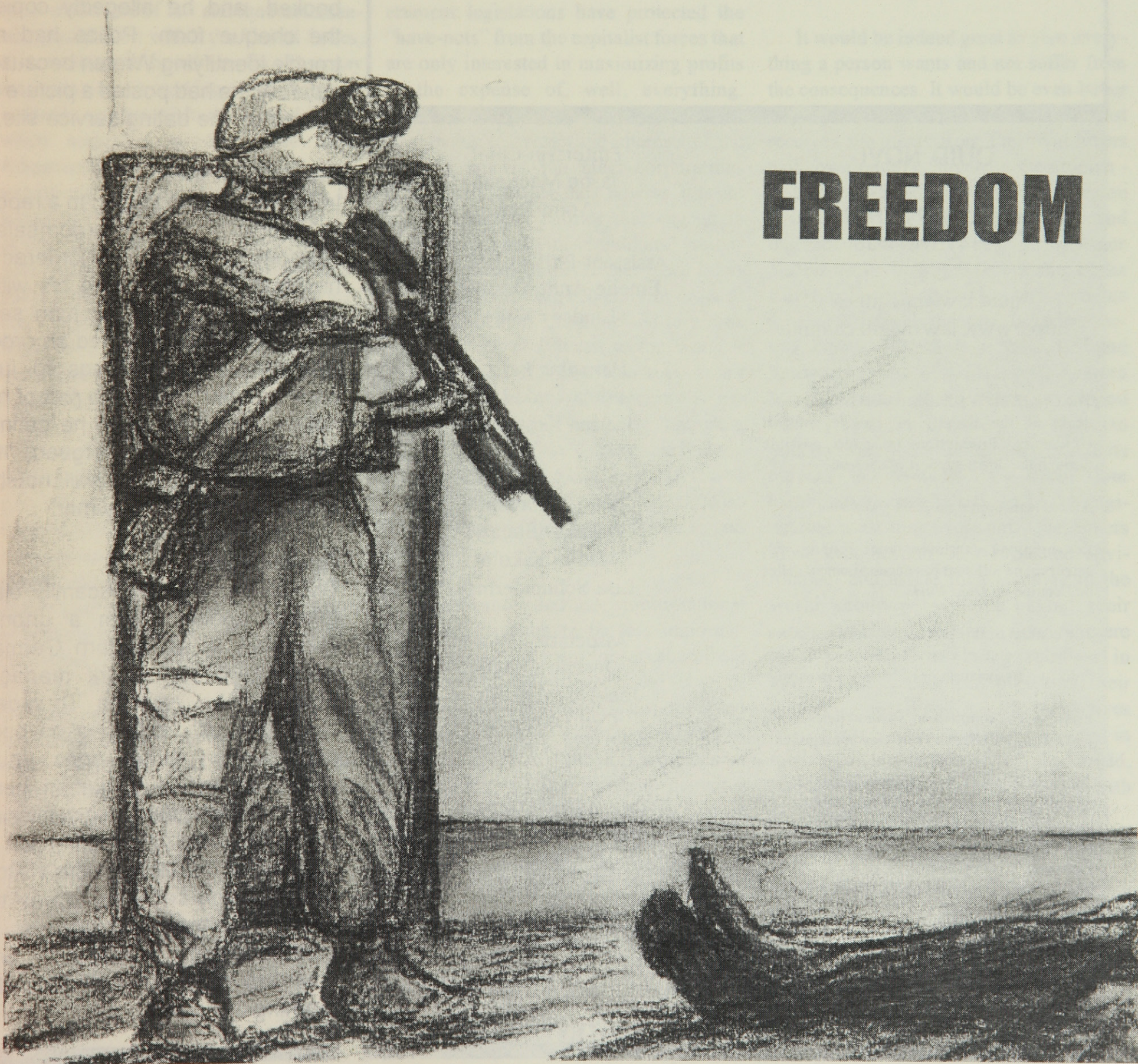


# Quid Novi

McGill University, Faculty of Law  
Volume 25, no. 12 - November 23, 2004

## FREEDOM





## In This Issue...

3. Editors page
4. If I had a million dollars
6. From CEGEP to law school
8. Lawyer Bashing  
Arafat
10. Male Lawyers Have Families too
12. Why be mean spirited  
The Law and Order Cup
13. Photoshop Fools First- Year
14. Did Someone say Pass/Fail?
15. Chico Resch defends top spot

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## Week in Review...

### Cheque fraud and dating

Police in Edwardsville, Ill., charged David Wroten, 20, with fraud in September after, they say, he took out membership in an online dating service by paying with a cheque drawn on the county jail, where he had been held earlier this year for theft. Wroten, like all inmates, had been issued a cheque for the cash he had on him when he was booked, and he allegedly copied the cheque form. Police had no trouble identifying Wroten because, naturally, he had posted a picture of himself on the dating service site...

### Please beat me!

In September, according to a report in Tehran's daily Mardomsalari newspaper, a local court ordered a husband to stop beating his wife. However, the Iranian woman said she would have accepted an order that limited the beatings to just once a week. "Beating is part of his nature," she said, "and he cannot stop it." The husband argued, "If I do not beat her, she will not be scared enough to obey me."

### Gnome porn

Thieves have stolen scantily clad garden gnomes from a gnome peepshow in an eastern German amusement park, park manager Frank Ullrich said on Thursday. "The gnomes display naked body parts -- the same ones you'd expect to see in a human peep show," Ullrich said of his missing stars. The adults-only attraction at Dwarf-Park Trusetal, where visitors peep through keyholes to see the saucy German miniatures in compromising poses, was smashed open early on Thursday morning.



# Editor's Page: Canadian Paternalism

by Aram Ryu, Co-Editor-in-Chief (Law III)

In a way that I am still not able to fully understand, I have been labeled "anti-American" for expressing my views on the underlying problem of democracy as it is applied in the States, without balancing it with positive sugar-coated aspects and apparently, I have engaged in religious "obscurantism" by pointing out that fundamentalists have corrupted the spirit of the rule of law and the fundamental principles on which the United States, as a country, is based on. So if we say something is not working correctly, we're suddenly against it? In the United States, when someone questions the Bush Administration, (s)he is suddenly labeled unpatriotic and anti-American and the last time I checked, Canada was not part of the United States (yet). Even though I have visited almost all of the major cities and lived in Kansas for awhile, it seems I can't point out the flaws of the system. Since I am a naturalized Canadian, I hope that is enough to criticize problems within the country.

In most situations, changes come with small increments but sometimes, revolution is necessary. According to Jean Charest, it is not a revolution, but a social re-engineering that is necessary. Even though his goal is noble, it will only be understood by historians with the luxury of looking back at a period without being embroiled in it. Recent (and ongoing) strike by the SAQ employees has made me question my limited understanding of economics: if they are on strike, and the stores cannot accept payments from customers, how will they receive bigger pay raises and job security since the SAQ will

have less profit to work with? However, the question should not be whether strike is the most efficient method of obtaining what they want, but it should be re-focused on the mentality of Quebeckers (and Canadians in general). It is often understood that Quebeckers and Canadians benefit from a highly paternalistic government and court system: government legislations have protected the "have-nots" from the capitalist forces that are only interested in maximizing profits at the expense of, well, everything. Courts have rightly used every legislation imaginable to protect the interests of the citizens against the mega-corporations determined to abuse their powers. It is not just government entities that engage in paternalistic activities: workers' unions use their power to serve their own interests and damage the economy in order to justify their own existence and to please their members. Private sector workers and civil servants complain they aren't paid enough and their job security is virtually non-existent. Tow truck operators complain they should have exclusivity over providing help to motorists who have trouble starting their cars because they don't want the revenues to go to taxi drivers.

In a country that most multi-national corporations deem to be less important than a single U.S states (observation from my personal experience), the cost of doing business in Canada is becoming too high in order to be globally competitive. Looking at the big picture, increases in labour costs would translate to increases in disposable incomes, hence people

would buy more products and services. That would boost profits, and allow for further job increases. However, increases in labour costs also mean services and products become suddenly more expensive to acquire. Sooner or later, dissatisfied consumers will turn to cheaper alternatives, as locally produced goods and offered services become prohibitive.

It would be indeed great to give everything a person wants and not suffer from the consequences. It would be even better if people didn't have to work, and just received payments from their employers and governments. However, the utopian - and, by definition, impossible - vision advanced by extreme social activists and big labour unions increasingly distance citizens from the actual functioning of the world economy. In order to guarantee jobs, especially in the manufacturing sectors, labour costs must be controlled and limited in order to avoid layoffs as have been experienced by other developed nations such as Germany. In order to guarantee the future of the country and its citizens, unions must back down from exorbitant demands and social re-engineering must move forward. Quebeckers must look beyond their protected environment and assess their standing in the world economy, without having their vision clouded by labour unions who are more interested in being relevant in today's society than truly protecting their members. In the end, people themselves must change, not at a glacial pace, but in tune with the evolution of the world, armed with proper knowledge and with slight self-sacrifice in mind. ■

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# If I Had a Million Dollars ... (I'd Change the World?)

## Thoughts on wealth, power, and social responsibility

by Derek McKee (Law III)

I appreciated Paul Hesse's article last week entitled, "Wanna Change the World? Get Rich!" No doubt this article has a good point. Throughout history, rich people often have changed the world, and sometimes for the better. History has seen its share of George Soros. And the Bill and Melinda Gates Foundation is doing cutting-edge work helping the poorest of the poor around the world.

But I can't resist adding one simple observation which leads me to question Paul's recipe for changing the world. I have a rough impression (not based on any reliable social science evidence, to be sure) that the vast majority of rich people are not so socially responsible. Soros and others like him are the exception, rather than the rule, even in the United States. Such philanthropists would be even more exceptional in Canada, where we don't have nearly as strong a tradition of noblesse oblige. Maybe this is because we don't have as many super-rich people.

On the other hand, Canada does have a stronger social safety net, and a more egalitarian society in general (although becoming less so, since the 1980s). And if the American comparison is of any use at all, let's not forget that American philanthropy occurs in the context of a society where 40 million people have no health insurance, where 2 million people are imprisoned. And with apologies to Soros et al., wealthy Americans in general show little inclination to transform this situation. Unlike its coastal neighbours, tony Orange County, California, voted overwhelmingly for Bush. And although he had his friends in Hollywood, Kerry clearly never

considered "the wealthiest 1%" to be a swing-voter demographic.

On the whole, then, I'm inclined to say that rich people have a spotty record when it comes to changing the world. Cynics (and this seems to include many of us, these days) might say that these people are just keeping their taxes low and looking out for number one. Über-cynics of the National Post and Fraser Institute variety would say that this is what they should be doing. A Marxist might say that they are just defending their class interests. But I actually think it's more subtle than this.

I write this as an educated, white, male, Anglo-Canadian of upper-middle-class background and outlook. When I imagine what it would be like to be rich, I do this with an inevitable irony. Although I'm poorer than the Wal-mart family, I'm rich compared to at least 90% of Canadian society and at least 99% of my fellow human beings. And as a law student, I feel like the possibility of becoming even richer is constantly being dangled in front of me.

So when we law students write about getting rich, I think we need to put that in perspective: for most of us it's not a question of getting rich but getting richer. Michelle Dean is right to say that not all of us have the privilege of disregarding money altogether (On OCIs and "Selling Out," Quid Novi, September 14, 2004). But most of us have never had to struggle to survive, and never will have to. We have options; our career choices are a function of our aspirations, not bare necessity. I think this is important to keep in mind when we worry about sacrificing our lives for jobs that we don't even like all that much.

Leaving that aside for a moment, I would like to imagine what it would like to be really rich. Although it's pure fantasy to imagine oneself as the next Warren Buffett, I think that quite a few of us have a realistic hope of ending up in the wealthiest 1% of Canadian society. If we did, would we use our increased power to change the world? Let's look south of the border for an example. Imagine that you were a wealthy resident of Orange County, with a profound social conscience. So you decide that you want to establish universal healthcare, or promote access to education for disadvantaged youth. Do you think this would be easy? For one thing, what would your old friends say? I mean the people you went to school with, the people you work with, your neighbours - would they still speak to you? For another thing, what would your new friends say? Those unwashed masses who you have avoided all your life, but now you want to "uplift" - would they value your opinion and perspective?

The following is just a hypothesis, and I would love to hear contrary arguments. But I suggest that most wealthy people do not get wealthy, or stay wealthy, by accident. (If their parents were wealthy they only had to stay wealthy, which is a slightly different story, but it doesn't affect my hypothesis.) People whose lives revolve around acquiring or retaining wealth tend to be good at it. It is both a skill and a habit, and it is cultivated in communities of people with similar outlooks.

But such communities tend to lose touch with anyone outside their coterie. Although they might express concern



for the poor, how many members of such communities actually interact socially with poor people? How many have a close friend who is poor?

Also, a few people might be so rich that they can relax and let others do the work for them. But I think the vast majority of rich people are like us law students: they work hard; their careers are important to them; that's how they got rich. With their lives devoted to their careers, how many of them have time to volunteer for a cause that they believe in? Even if they were able to "downshift," would they know how to be useful to a cause they believed in?

I would like to put forward the hypothesis that changing the world doesn't come out of nowhere. First, changing the world takes practice. Most people don't just wake up one morning and decide they want to change the world; those who do so usually attempt to change the world in ways that are hopelessly naïve and

usually counter-productive. Likewise, changing the world takes context, community, the support and teamwork of one's peers. How many people will try to change the world if they have no personal connection to the issues at stake? If supporting these issues means alienating their friends and loved ones?

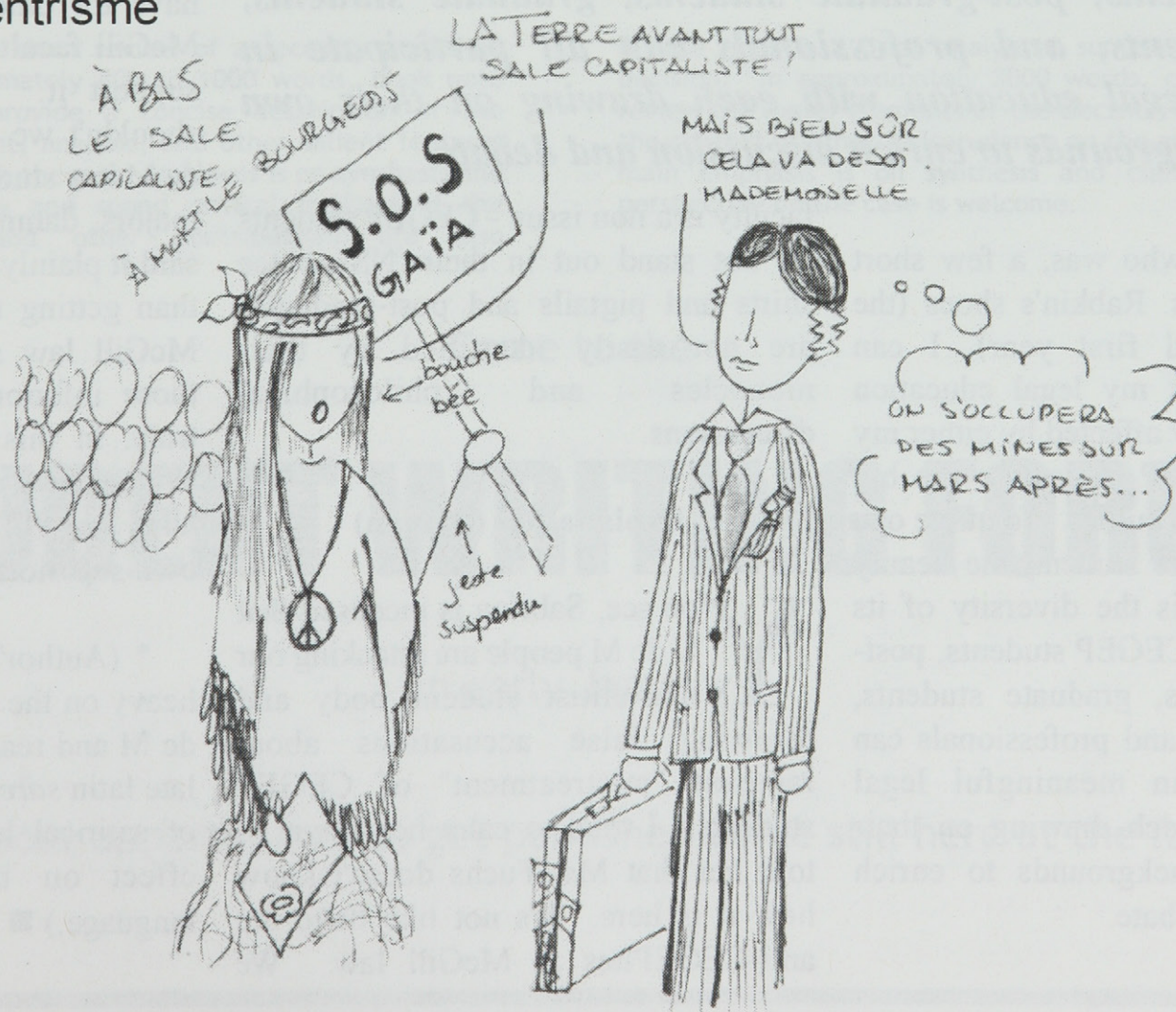
My hypothesis is that most rich people don't know how to change the world, even if they wanted to. Any meaningful attempts to change the world would be dissonant with the aspirations, habits and identities that got them where they are. So while it is possible for rich people to devote themselves to beautiful causes, conditions dictate that they are far more likely to work for ugly ones.

I can see why ambitious, upwardly-mobile law students would be tempted by the idea that they can shelve social responsibility for the time being, and concentrate on making money. I am not immune to the lure of more and better

stuff, and I too dream of having enough money to make people do things my way. And I write articles like this one partly in order to convince myself to be true to the ideals I would like to have.

But I think procrastinating about changing the world is risky. I suspect that for most people, it is a dead end. I agree with Paul that we should be true to ourselves, and that we shouldn't flagellate ourselves if we're interested in money. But I don't think we should kid ourselves either. And when I hear people around the faculty talk about getting rich first, then changing the world later, I think there's a lot of self-kidding going on. Let's face it: the more time you spend worrying about your car, your Armani suit, and how to acquire more of them, the less you will be in a position to change the world. If we are serious about social responsibility, we need to take stock of the privilege we already have, and put it to work. The time to start changing the world is now. ■

## Géocentrisme





# From CEGEP to Law School - Get Over it

by Ayman Daher (Law IV) & Sabrina DiGiambattista (Law IV)

## Part I: Rant (Sabrina)

**A**s a fourth year bilingual law student I, like Ms. Rabkin and Ms. Fuchs, entered McGill Law right out of Marianopolis College with merely a DEC in Liberal Arts to my name. (Of course my attempts to charm my professors and cram sessions at Concordia library earned me significantly higher than a B+ average - but I digress ...)

I am appalled that Ms. Fuchs, a Université de Montréal student who does not spend the greater part of her waking hours in the hallowed halls of OCDH, could presume, based on one misguided article about a single CEGEP student's perceived shortcomings, to make such a blanket accusation about the "air of academic elitism" that apparently runs rampant at McGill Law.

***the beauty of McGill Law is the diversity of its students. Here, CEGEP students, post-graduate students, graduate students, mature students, and professionals can all participate in meaningful legal education with each drawing on their own personal backgrounds to enrich discussion and debate.***

As someone who was, a few short years ago, in Ms. Rabkin's shoes (the eighteen-year-old first year), I can honestly say that my legal education was not adversely affected by either my status as a CEGEP student or the big bad post-graduate bullies. To quote one such post-graduate student, the beauty of McGill Law is the diversity of its students. Here, CEGEP students, post-graduate students, graduate students, mature students, and professionals can all participate in meaningful legal education with each drawing on their own personal backgrounds to enrich discussion and debate.

Every student here was selected on their own personal merits and accomplishments. Our respective accomplishments may be different but we have all earned our spot here and, as such, it is not our "privilege" to be treated equally - we are equal - and we are treated as such. Perhaps things were different in my day, but I have never been the victim of outright resentment from my colleagues nor have I been made to feel like anything less than a law student.

I count a number of both post-graduate students and CEGEP students among my friends here at the faculty and I can assure you I did not select any of them based on the number of official certificates on their bedroom wall. For the most part, the level of past education that each student brings to the

faculty is a non issue - CEGEP students do not stand out in their 'NSync tee shirts and pigtails and post-graduates are not easily identified by their monocles and philosophical discussions.

## Part II: Explanation (Ayman)

**Y**ou see, Sabrina is incensed that U de M people are attacking our non-elitist student body and throwing false accusations about rampant "mistreatment" of CEGEP students. I tried to calm her down. I told her that Ms. Fuchs doesn't know how it is here. It's not like there are anti-CEGEPites at McGill law. We

don't have bands of marauding pitchfork wielding post-graduate students hunting down nineteen-year-olds in the halls. (Except maybe at Coffee House, but those students are usually drunk and looking for something else ... if you know what I mean.) We don't have institutional anti-CEGEPism in the administration and CEGEP students do not walk around the faculty in a state of persecution. But Sabrina said that she had to say something, or else people around the world, Googling our faculty, would get the image that there is mistreatment here. I was convinced.

But I'd like to take this opportunity to support another cause that I champion. I have to speak out. Not against anti-CEGEPISM, but in favour of the other elitist doctrine rampant at McGill Law. That's right, the only discrimination I've seen is the one we have for other law schools and other McGill faculties. And I, for one, fully support it. We are better, so why shouldn't we have some disdain for U de M law students or McGill economics majors, dammit. About time someone said it plainly. Nothing more satisfying than getting together with a bunch of McGill law students and laughing at those inferior brats around us. And truly, in this aim, we are all united. Whether we come from CEGEP or we have two PhDs, we can all revel in our own superiority! Amen.

\* (Author's note: This last part was heavy on the sarcasm. If you're from U de M and reading this: sarcasm is from late latin *sarcasmos*, and means a mode of satirical humour depending for its effect on bitter and often ironic language.) ■



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A case note is a brief analytical summary of a recent decision. In approximately 3000 words, case notes will review the major elements of the decision and place it in the context of other jurisprudence on the area. While the main emphasis is on synthesis and clarity, a critical perspective on the case is welcome.

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# Lawyer Bashing - It's Nothing New

by Mariam S. Pal (Law III)

**T**his year I have been taking Roman Law. Contrary to some of the sarcastic remarks that some of my well-meaning fellow students have made, I do not plan to practise it. Perhaps Roman law is not as obviously practical as something like corporate finance or tax law but it does have its place in helping us understand the historical roots of the civil law. Besides, I've learned a lot of neat bits and pieces not to mention the impressive expansion of my Latin vocabulary.

As a result of this course I've also learned a little bit about German civil law and its Roman roots. As part of my research I came across a very interesting book by a fellow named Strauss who writes in one chapter about how much everyone hated lawyers in medieval Europe. I read the chapter rather attentively and found it contained some highly amusing anecdotes about how people in medieval Europe perceived lawyers and law students. I'll share some of his stories with you. It's that time of year isn't it and we all could use a laugh.

First, about law students. A peasant woman sees some students

and asks the bystander who they are. When told that they are law students she asks the bystander to pity her because once these young men (!) are lawyers and let loose there will never be peace again! In medieval Europe somebody who only attended a law lectures but got no degree was considered to be learned. So I guess I can consider myself "learned." I wonder if doing good summaries counts.

Now for the good stuff. My personal favourite is the anecdote that if God were in litigation against Satan who would win? Why the devil of course for he has all the lawyers on his side. Insulting lawyers is nothing new. Strauss reports that some of the more common adjectives included describing lawyers as quarrelsome, tongue flapping rabulists, impudent and immoral. It was said that lawyers grow fat on slow moving court proceedings just as a physician grows rich on a lingering disease. And the English philosopher Sir Thomas More banned lawyers from Utopia. I guess we're all supposed to be in Hell.

In medieval Europe, I was surprised to know that there were advice books. We have Doctor Phil and they had books with sexy titles

like *Nine Vices That Make a Poor Man Out of You*. Guess what vice number five is? Going to a lawyer of course. Or perhaps you could pick up *Three Golden Teachings of Chilam* the Sage who advised that one of his three golden teachings was not to start a lawsuit. Then, as now, legal action was very expensive. People were advised that if they went to court they should take with them a sack of money, a sack of patience, and a sack of documents and that the longer the case the lighter the bag of money would be, the heavier the bag of documents would be, and the shorter would be their patience.

I will close with a little ditty. It goes like this:

*Whether you're plaintiff or defending  
There's no end to your money  
spending*

*Not counting fear, worry and doubt  
And this goes on the year in year out  
While jurists, lawyers, clerks purloin  
Your treasure down to your last coin.*

Sigh. Isn't it nice to know that the more things change the more they stay the same? ■

## Pour l'Arafat qui vit ou sommeille en nous

Viviana Iturriaga Espinoza (Law IV)

**V**endredi, assise devant la télé, je vois les images d'une réalité en directe, celle d'un peuple bercé par le chagrin d'Arafat redevenu Yasser. L'icône devenue mortelle. Leur pater n'est plus. J'imagine trop bien leur sentiment de desprotección devant le départ de cet homme qui, malgré tout, a fait sienne leur

impopulaire, parce que supposément vouée à l'échec, il a lutté contre leurs désespoir et impotence. Mercedes Sosa me vient à l'esprit : "Sólo le pido a Dios que la guerra no me sea indiferente, que la resaca muerta no me encuentre sin haber hecho lo suficiente..." ce vendredi 12 novembre j'ai troqué le pashmina pour

le kefieh.

Qui voudra porter ce poids? Certains disent que désormais la paix aura une meilleure chance. Really? Ni Caillou, ni les Teletubbies pourraient croire tel bobard! Ça m'agace! Mais, ce qui m'agace encore plus, sont les éditoriaux qui parlent des failles de cet homme. Ça m'agresse! Ils peuvent



bien parler de failures assis sur leurs culs carrés sur leurs chaises capitonnées dans le confort de leurs bureaux avec la vue sur la ville!

De ces lectures, je retiens deux idées : les échecs et les opportunités.

### Les échecs

Ciel que nous sommes mal à l'idée de l'échec, du failure! On est tous là comme des bêtes à le nier, à nous imaginer que non, non, pas moi, peut-être l'autre mais pas moi! Et peut-être bien que l'échec, sa reconnaissance et son acceptation, est la plus salutaire des opportunités pour croître et mûrir. Cependant, avec l'effleurement du temps je me suis rendue compte que deux difficultés surgissent avec cette reconnaissance et acceptation : prendre ownership de sa vie, en être responsable et se pardonner d'avoir échoué. Il est plus facile pardonner son neighbour que se pardonner. " À tous mes loupés, mes ratés, mes vrais soleils, à tout ce que je suis passé à côté, à tout ce que je n'ai pas osé, à nos actes manqués " chantait Jean-Jacques Goldman. Il avait raison. On en manque des occasions, on en perd des opportunités! C'est ainsi. Yasser une fois devenu Arafat en a manqué des opportunités. Peut-être n'avait-il pas toutes les données en main? Peut-être n'avait-il pas mûri suffisamment pour distinguer ces portes que d'autres voyaient? Peut-être était-il mal conseillé? Peut-être les forces adverses étaient trop bien consolidées? Peut-être, peut-être, peut-être. Chi sa? El hombre propone y Dios dispone.

### Les opportunités

Malgré ce système qui nous pousse à gober un kaléidoscope d'opportunités, nous en manquons et en manquerons et nous passerons à côté des bonheurs simples et réels parce que, tôt ou tard, épuisés au travail et souvent désillusionnés et seuls, nous aurons substitué notre conception personnelle et tailored-made du bonheur par les mirages contemporains de la réussite marketable et préfabriquée. C'est la vie. On mûrit lentement et notre perception prend du temps à distinguer l'épi du millet. Et, puisque nous sommes impatients...

Les opportunités semblent aussi détenir le pouvoir de créer ce que j'appellerai la métamorphose courtisane. Castiglioni écrivit il y a quelques siècles déjà, le premier self-help book sur l'étiquette de la Cour pour bourgeois entrepreneur (Il Cortegiano) et dieu sait que j'aurai adoré être courtisane renascenta à Rome ou Venise, mais ça c'est une autre histoire... ce que j'entends par métamorphose courtisane est la volonté consciente de camoufler ses idées et sa conscience dans le but de plaire afin de sécuriser un avantage ou de ne pas être catalogué de manière à être discriminé désavantageusement. À mon avis, elle se produit sporadiquement déjà mais elle risque de se réaliser davantage dans le monde professionnel. Est-ce la spéculation opportuniste qui nous motive? L'élan de survie motivé par la peur? L'ambition pure? La vie serait-elle plus simple sans conscience et dans l'indifférence? Que faire devant

notre conflit entre la liberté d'expression et les opportunités spéculées? Ah! C'est fou à ce que nous pouvons nous soumettre lorsque nous découvrons notre propre valeur marchande...

Même à notre niveau (comparé à celui d'Arafat) on peut se rendre compte que la réalité n'est pas à 0 value. Nos choix et nos motivations sont conditionnés par une multitude d'éléments externes et internes et nos résultats ne sont pas toujours ce que nous espérons. Encore faut-il give it a try et s'en accommoder? Apprendre à se pardonner nos manques est difficile mais c'est, il me semble, le seul exercice capable d'alléger l'aigreur et renouveler le présent. Peut-être est-ce le bonheur? Voir dans la vie une obligation de moyens et pas une obligation de résultat?

Comme mortelle, consoeur de la vie, je ne peux qu'avoir de la compassion pour un homme qui eut le courage, que je n'ai pas, de sacrifier son existence quotidienne à une cause nécessitant foi et dévouement et qui fit tout ce qu'il pouvait et savait, en tant que mortel, faire. ■

*A tout ce qui nous arrive enfin, mais trop tard*

*A tous les masques qu'il aura fallu porter*

*A nos faiblesses, à nos oublis, nos désespoirs*

*Aux peurs impossibles à échanger*

*A nos actes manqués.*

- Jean-Jacques Goldman

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# Male Lawyers Have Families Too

by Lindsey Miller (Law III)

**T**his Wednesday I attended a talk arranged by the Women's Law Caucus. Prof. Campbell, a McGill law professor and mother to a young son, discussed the delicate balance between the demands of professionalism and the demands of one's personal life. She encouraged the attendees - mostly female law students - not to sacrifice one's professional life for one's personal life, and vice versa. If we - that is, female lawyers - feel that our professional life is in danger of taking over our personal life, we need to speak up and require change.

The issues discussed are particularly important to the female half of the legal profession, especially given the popular image of the 'modern working woman.' This paragon of perfection is the mom who wakes early, makes her kids' lunches, drops them off at school, goes to her high powered office job where she nabs an important client and settles a multi-million dollar deal, then picks up her kids from school, drives them to their after school activities, prepares a healthy dinner, cleans the house, and puts her kids to bed. Presumably, at some point, she also gets to sleep. In other words, women are expected to 'do it all': fulfill all the traditional tasks of the stay-at-home mom, as well as doing everything to become a respected and competent professional. The trouble is, these women now only have half the time to complete what are full-time jobs.

The impossibility of doing twice the work in the same time has led to social changes, including a much greater division of the parenting and homemaking tasks between parents. However, old stereotypes and social expectations are still going strong, though perhaps in subtler ways. I highly doubt that in this day and age, a partner in a law firm would tell a female associate that her place is in the home. On the other hand, if a female associate called in to say she wouldn't be at work because her child was sick, I think the reaction would be different than if male associate pleaded the same situation.

This leads me to an important point - we need to move beyond seeing the work-family balance as a 'women's issue'. The professional/personal dichotomy is endlessly discussed by women's groups. The very fact that it was the Women's Law Caucus that arranged for Prof. Campbell's talk is indicative of the 'genderized' nature of the issue.

Before I go any further I should say that I'm glad the Caucus arranged for the talk and I found Prof. Campbell's comments thought-provoking. I should also say I fully believe that women have traditionally been the ones caught in the 'Mommy-trap' between work and home. However, my problem is that this issue doesn't, and shouldn't, just affect women - it affects men, too. If we're working on the theory that men and women are equal, and therefore should share in parenting equally, then we need to recognize that men might just need parental leaves as much as a woman needs maternity leave. It needs to be okay for a man to refuse to work late on a file because he needs to be home to tuck his daughter into bed. It needs to be acceptable that a man take six years off of work to be a stay-at-home dad. We need to be at a point where a male lawyer feels just as entitled as a female lawyer to request that the firm provide a baby-sitting service at a firm weekend golf-tournament - and does so. If we can do that,

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I think we'll have made a giant leap forward, not only for women's rights, but for the good of society as a whole.

This, of course, requires more than just a change in law firm policy. It's a changing of social consciousness, and a shift in how society perceives the roles of fathers and mothers. It will require elevating fatherhood to the same level as motherhood. It will mean that it be socially unacceptable for fathers to be less involved or interested in the raising of their children simply because they are fathers and not mothers. It will also mean that society will valorize men's efforts to raise children and to focus on their personal lives as much as it currently does for women.

The next problem is how we can get there...and for that I have no easy answer. I think it will involve an effort on the part of women and men to change how they think about themselves, and how they set their life's priorities. We need to have new role models and new social narratives.

You may have heard or seen the show 'Judging Amy,' which features a female judge balancing her professional life with her role as her daughter's primary caregiver. Her court services officer, Bruce, is a single father who is also struggling to balance both professional and personal lives. We need to have more Bruces on television, movies, and books, who are taken seriously for what they are doing. Most of all, I think the image of the man who is clueless in a domestic setting needs to come to an end. You may have seen the minivan commercial where a mother efficiently loads her children and bags into the vehicle, while her husband struggles ineffectually to close their stroller. She eventually takes the stroller and, using the nifty 'fold-down seat' feature of the minivan, smoothly slides the stroller into the minivan. With cool superiority, she asks, 'Honey, are you coming?' If it were Dad who took over Mom's struggles with the stroller, we'd think it was patronizing. Why is

it funny and not patronizing when the roles are reversed?

I say all this conscious of the fact that the current reality is the deadbeat dad and the single mom family; families with two mothers or two fathers; families that have been reconstituted, re-arranged, and re-conceptualized; and women who are still undervalued and overworked in our society. However, I think the underlying point is still valid. We need to rethink where our values have been placed. The devaluing of 'women's work' - in this instance, the particular task of raising children - needs to be reversed. There should be no shame attached to a man wanting to be a stay-at-home dad, or a woman wanting to be a stay-at-home mom. There will never be true equality of men and women until this fundamental change can be made. As legal professionals, we all need to recognize that lawyers have personal lives, and that male lawyers have families too. ■

## Call for submissions (Special *Quid* Issues):

January 11th:  
Civil Law Careers Day

January 25th:  
Common Law Careers Day

Share your recruitment experiences, worst and funniest stories alike!  
Deadline for submissions is January 6th and January 20th (at 5PM)



# Why Be Mean Spirited When English/French Is Involved?

by Jeff Roberts (Law IV)

*I was struck by a strange impression of déjà vu. (Since I am a francophone, I can use French words in English without making myself ridiculous and affecting a French accent I don't have!) ["America, Fuck NO!" Quid Novi, November 16, 2004]*

My goodness. It was with a mix of embarrassment and gratitude that I took in the author's useful admonishment regarding anglophones' pathetic attempts to affect French mannerisms. Thanks to his words, I will no longer make myself ridiculous with affectations like "déjà vu", and I will advise the rest of English North America to scrub this piece of pretension from our vocabulary. Likewise, those obviously phoney and pompous expressions 'rendez-vous',

'souvenir', 'voyeur' and 'coup d'état' shall soon be expurgated from our speech.

For some anglophones, ridding ourselves of these ridiculous French mannerisms will take some time; the residents of Des Moines, Detroit and Qu'Appelle shall undoubtedly have a hard go of it. Meanwhile, the rest of us pretentious anglos will have to muster extra vigilance to lose some of our other linguistic affectations - affectations such as "falafel", "pajamas", "zeitgeist" or "schmuck". The reality is that is simply absurd to go around trying to interject phrases from Arabic, Hindi, German or Yiddish just to make our conversation appear important or sophisticated. Don't we know we know how ridiculous we must seem to people who actually speak these languages?

This project to ensure that every word in our vocabulary is derived directly from Chaucer will, of course,

take some work. But it will be worth it provided a reciprocal effort is undertaken by our francophone friends - I, for one, am sick of French people trying to impress me with affected English such as "weekend" or "l'Internet" or "cool".

\* \* \*

A comparison between the beauty and purity of the French language versus the breadth and adaptability of English is work for another day. Here, it is enough to say that I love both languages equally and for different reasons.

What I dislike is writing that is ill-informed and mean-spirited. Perhaps the rest of "America, Fuck NO!" possessed nimble wit and flashing insight. I wouldn't know. I stopped reading after the ringing ignorance of the first paragraph. ■

## The Law and Order Cup: These Are Their Stories ...

by Kirsten Mercer (Law II)

Well ... I am sad to report that the 'Cops' declared martial law on Tuesday night, with a convincing 4-1 over the fearless (if under-attended and slightly de-hydrated) Force Majeure. I have to admit though, I learned a few things that night.

1. McGill does not actually have a criminology program.
2. A 'copaholic' is a bar in downtown Montreal which may or may not still exist.
3. A team scrambling to break .500 probably can't beat the second best team in the league if several of the team's strongest members are either on the D.L. or are suffering from an end-of-semester case of temporary amnesia.

4. Even if you aren't going to win the game, there is absolutely no reason you can't be the best looking team on the ice! The Force broke in their new, custom-designed jerseys on Tuesday, created by emerging graphic artist and leading goal-scorer Bob Moore. If you can't beat 'em, dazzle 'em with your good looks ... That's what I always say!

The Force's single goal came early in the second period, scored by Force rookie Caolan Moore. Caolan took a nice pass from returning forward Dan Ambrosini to put the Force on the board.

Word in the locker room is that the TSN Turning Point came about half way through the second period. Charlie Flicker, another member of

the Force 'production line,' was robbed when the Cops' goalie threw his stick to block Flicker's shot. The official failed to award a penalty shot on what would surely have been the Force's second goal.

Also worth noting, Force goaltender Jason MacLean stood on his head Tuesday night with an aggressive game in net, making stop after diving stop. Though the 4-1 score doesn't suggest a fantastic goalie performance, if you ask anyone who was there, they'll agree.

Luckily for the Force, and for all of you, the pre-break season has been extended by a game! The Force will take on Blades of Steel on Sunday, November 28th at 10 pm. Why would you want to study for exams, when



you can be taking another "study break" like the rest of us!?! ... And if you insist on making good academic use of your time, why not bring your Criminal Code and count the number of violations that take place on the ice ... Can one really consent to serious bodily harm? Or perhaps an analytic reflection on the implications of the failure to enforce legal rules (ahem ... blind officials!), or on the creation of an alternative normative order ... Sounds like a Foundations exam to me! ■

# Photoshop Fools First-Years

by Angela Lu (Law I) and Jen Wu (Law I)

While surfing pubdocs, by some inadvertent clicking we stumbled upon this picture from orientation (see the original at <http://www.law.mcgill.ca/students/clubs/orientation/>). Further inspection revealed some problems we just couldn't reconcile ...

1. How did this mystery party pic end up framed in Thomson House?
2. Why is this guy's head so big?
3. McGill Law versus the Ginos? (the shirts)
4. Why is his head SO big?
5. WHY? Whyyyyyy?

We, former computer geeks, salute the creator of this picture for his/her Photoshop skills.





# Did Someone Say Pass/Fail?

by Jason MacLean (Law II)

**L**earning the law from one's living room has its disadvantages. Despite the strong bond one develops with pizza and Chinese takeout delivery guys, you miss your friends and the comings and goings of faculty life.

To get caught up, I decided to visit Democracy Wall (now Foundations Wall). On it I spotted a voice from the wilderness declaiming that grades are hurting us. Brother, you don't know the half.

Underneath that voice a piece of (cautionary) advice: check out the articles by John Haffner (The Haffner, for those who don't know) and myself. In the last of those articles, we promised that we would update everybody in the fall about the progress of the pass/fail initiative. While boating one day over the summer, however, The Haffner and I decided that we never wanted to hear the words pass/fail again for the rest of our lives; we were simply tired of the fruitless debate. But the voice from the wilderness changed all that. Besides, a promise is a promise.

Any attempt to implement a pass/fail assessment regime faces a difficult obstacle. This was raised by some students last year, and although this concern was, statistically speaking, a minority position, it is not without considerable merit. It goes like this: McGill is not Yale (or even Berkeley). That is, McGill does not have sufficient status capital to adopt a pass/fail (or, say, a distinction/pass/fail) evaluation regime. Were we to do so, law firms that presently hire McGill students may no longer be interested in doing

so.

Having gone through U.S. recruitment this semester, I am now convinced that this is probably true. The underlying issue is increased transaction costs. Firms make decisions about whom to interview based on the alchemy of GPA and class ranking; different firms have different cut-offs. Were we to do away with grades and rankings, firms would have to invent - or the faculty, more likely, would have to invent for them - some other way of discriminating among students, most of whom would "pass." Life, however, is short. U.S. firms have readjusted their recruitment practices for Yale and Berkeley. Would they do so for McGill? Some undoubtedly would, because McGill lawyers are building an excellent reputation. But many more just as easily might not. The same probably goes for most large Canadian law firms (and, for that matter, most Canadian and U.S. graduate law programs).

The mistake lies, then, in seeking to imitate the wrong model. Yale and Berkeley have somewhat different assessment regimes, but each is a thoroughly and systematically pass/fail outfit. Primarily for the reasons canvassed above, this is not a viable model here.

Instead, McGill ought to partly emulate Stanford, which allows students to elect (or not) to take a certain number of courses pass/fail; at McGill one can only do this by going on an academic exchange, though this is an excellent and very accessible opportunity to pursue 12-15 credits pass/fail while engaging another

culture.

That McGill has not implemented an approach akin to Stanford's is not for a lack of trying. In 1996, an LSA Task Force on Curriculum and Examination Reform was struck; it presented its findings in April of 1996 in a document called "Report and Recommendations Concerning the Curriculum and Evaluation Practices of the Faculty of Law." Regarding pass/fail evaluation, a majority of students (curiously, no numbers are provided) rejected its outright adoption. "Many students," however, "supported the idea of some pass/fail credits being available in order to encourage intellectual exploration ..."

The report also recommends that "students be permitted to take a stipulated number of law courses (or a credit equivalent) in their second language on a pass/fail basis in order to promote bilingualism in the Faculty without compromising students' academic standing."

I think the report has the balance exactly right. There is no credible argument to be made that grades and rankings serve intellectual exploration and development. But students come to law school for a variety of not-mutually-exclusive reasons, not the least of which is to secure employment upon graduation - so long as this is true, grades and rankings are not going to disappear any time soon. The best strategy, therefore, is to try to reform the current system from within, to make it a little more conducive to intellectual and community engagement without threatening the very useful role that grades and rankings play as academic credentials. ■



# Depleted and Hungover Chico Resch Defends Top Spot

by Ken McKay (Law IV)

Chico Resch faced their toughest challenge of the season on Sunday against Pines Power. With half the team missing because of suspensions, retirements, and other commitments, Chico was only able to put six skaters and a goalie together to face their opponents. There was no lack of ice time for the players, which was unfortunate given that several players (who shall remain nameless) who did show up were hungover from the previous night's activities. The game got off to a slow start with the Chico players trying to save energy for what was going to be a long game. At the ten-minute mark of the first period Ken McKay capitalized on a defensive clearing mistake by Pines Power and opened the scoring with a one-timer from just inside the blueline. Several minutes later Pines

Power tied the game at 1-1 when Chico failed to clear the puck after some brilliant saves by goaltender Mike Eldridge. Early in the second period McKay scored after some brilliant forechecking from Joe Adams putting Chico ahead 2-1. The game was not without some rough play and Jason Crelinsten seemed to be singled out in the early going (two penalties in the first period) for excessive shenanigans. Early in the second period with Crelinsten the box (on a very questionable call), Matt Singerman took a pass from Steve Gough and made no mistake in picking the low corner and Chico was ahead 3-1. Several minutes later Singerman made it 4-1 after taking a nice pass from Crelinsten in the high slot. Captain Ian Osellame's quick wrist shot beat the opposing goalie through the five-hole and picked up

Chico's fifth goal on the power play after some nice puck control by Chico in the defensive end. McKay picked up the hat trick on another Adams pass to finish the scoring for Chico. Sitting on a 6-1 lead Chico decided to be generous and did not contest a goal which the referees were going to call back after some obvious goalie interference. Osellame was quoted: "Perhaps if 'Leopard Skin' had a chance of getting his first shutout of the season I would have contested the goal." The final score of the game was 6-2 and a completely exhausted Chico Resch left the ice happy, yet hoping that more skaters show up to the next game.

Chico Resch will be hosting Coffee House this Thursday, November 25th. Come support the team either at the game or by drinking with them! ■

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